

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WISCONSIN

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LARRY BRACEY,

Plaintiff,

v.

JAMES GRONDIN, C.O. HUNT,  
THOMAS TAYLOR and C.O. MURRAY,

Defendants.

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ORDER

10-cv-287-bbc

Plaintiff Larry Bracey, represented by counsel, is proceeding on claims that defendants James Grondin, C.O. Hunt, Thomas Taylor and C.O. Murray violated his rights under the Eighth Amendment by using excessive force against him when they transferred him to a holding cell on July 25, 2005, and later when they returned him to his own cell. A trial is scheduled for October 31, 2011. Plaintiff has filed three motions for writs of habeas corpus ad testificandum for proposed prisoner witnesses: Raynell D. Morgan, dkt. #101; Deshaun Murphy, dkt. #102; Shawn O. Brooks, dkt. #107. (Plaintiff also filed motions for issuance of subpoenas for defendants and a non-prisoner witness, Frank Van den Bosch, but he filed a motion to withdraw his request. Dkt. #122.)

I will grant plaintiff's motions with respect to Morgan and Brooks because he has supported his request with affidavits from these two prisoners in which they declare that they have personal knowledge of events relevant to this case. However, plaintiff has not filed an affidavit from Murphy. Before granting plaintiff's request for a writ of habeas corpus ad testificandum for Murphy, plaintiff must file an affidavit from Murphy in which he declares that he will attend and testify at trial voluntarily and that he has actual knowledge of facts directly related to the issue to be tried.

Plaintiff has also filed a motion for a writ of habeas corpus ad testificandum for his own appearance at the final pretrial conference, currently scheduled for October 27, 2011. Dkt. #121. I will deny this motion. I will not require the prison to transport plaintiff to the courthouse for both the final pretrial conference and the trial. If plaintiff wishes to be present for the final pretrial conference, it can be rescheduled for 8:30 a.m. on October 31, before the trial begins. Otherwise, the court will hold the conference on October 27 at 3:00 p.m. Plaintiff should notify the court by October 16, 2011 whether he wishes to reschedule the final pretrial conference.

One final note. Since plaintiff obtained counsel on October 2, 2011, plaintiff's jailhouse lawyer has filed several motions with the court, including a motion for appointment of counsel, dkt. #93, a motion for spoliation sanctions, dkt. #96, a motion to stay, dkt. #98, and a motion for writs of habeas ad testificandum for several prisoner witnesses, dkt. #108.

Now that plaintiff is represented by counsel, neither he nor his jailhouse lawyer may file motions directly with the court. Thus, I will deny the motions that were not filed by plaintiff's counsel. (I note that plaintiff's counsel has filed a separate motion for spoliation sanctions, dkt. #119, which will be considered with the rest of the parties' pretrial submissions.)

#### ORDER

IT IS ORDERED that

1. Plaintiff Larry Bracey's motions for writs of habeas corpus ad testificandum for inmates Raynell D. Morgan, dkt. #101, and Shawn O. Brooks, dkt. #107, at the Wisconsin Secure Program Facility in Boscobel, Wisconsin, are GRANTED. The Clerk of Court is directed to issue writs of habeas corpus ad testificandum for the attendance of Morgan and Brooks at trial beginning on October 31, 2011. The witnesses should arrive at the courthouse no later than 8:00 a.m.

2. Plaintiff's motion for a writ of habeas corpus ad testificandum for his own presence at the final pretrial conference on October 27, 2011, dkt. #121, is DENIED. Plaintiff's counsel should notify the court by October 16, 2011 whether he wishes to reschedule the final pretrial conference to 8:30 a.m. on October 31, 2011.

3. Plaintiff may have until October 16, 2011 to file an affidavit supporting his request for issuance of a writ of habeas corpus ad testificandum for inmate Deshaun Murphy.

4. Plaintiff's motion to withdraw his motion for issuance of subpoenas, dkt. #122, is GRANTED. The motion for issuance of subpoenas, dkt. #103, is considered WITHDRAWN.

5. The motion for appointment of counsel, dkt. #93, motion for spoliation sanctions, dkt. #96, motion to stay, dkt. #98, and motion for writs of habeas corpus ad testificandum for several prisoner witnesses, dkt. #108, filed by plaintiff's jailhouse lawyer are DENIED.

Entered this 12th day of October, 2011.

BY THE COURT:

/s/

BARBARA B. CRABB

District Judge